

Senate File 375 - Introduced

SENATE FILE 375
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 225)

A BILL FOR

1 An Act establishing employment protections for employees absent
2 from work due to adoptions and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 216.2, Code 2015, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 01. "*Absence due to an adoption*" includes
4 an absence in order to prepare for or participate in the
5 adoption of a child, or to care for a newly adopted child
6 within the first year of adoption.

7 NEW SUBSECTION. 001. "*Adoption*" means the permanent
8 placement in this state of a child by the department of human
9 services, by a licensed agency under chapter 238, by an agency
10 that meets the provisions of the interstate compact in section
11 232.158, or by a person making an independent placement
12 according to the provisions of chapter 600.

13 NEW SUBSECTION. 0001. "*Child*" means a person under eighteen
14 years of age.

15 Sec. 2. Section 216.6, subsection 2, unnumbered paragraph
16 1, Code 2015, is amended to read as follows:

17 Employment policies relating to pregnancy, ~~and~~ childbirth,
18 and adoption shall be governed by the following:

19 Sec. 3. Section 216.6, subsection 2, paragraphs a, b, d, and
20 e, Code 2015, are amended to read as follows:

21 a. A written or unwritten employment policy or practice
22 which excludes from employment applicants or employees because
23 of the employee's pregnancy or adoption is a prima facie
24 violation of this chapter.

25 b. Disabilities caused or contributed to by the employee's
26 pregnancy, miscarriage, childbirth, and recovery therefrom,
27 or an employee's absence due to an adoption, are, for all
28 job-related purposes, temporary disabilities and shall be
29 treated as such under any health or temporary disability
30 insurance or sick leave plan available in connection with
31 employment. Written and unwritten employment policies and
32 practices involving matters such as the commencement and
33 duration of leave, the availability of extensions, the accrual
34 of seniority, and other benefits and privileges, reinstatement,
35 and payment under any health or temporary disability insurance

1 or sick leave plan, formal or informal, shall be applied to a
2 disability due to the employee's pregnancy or giving birth, or
3 an employee's absence due to an adoption, on the same terms and
4 conditions as they are applied to other temporary disabilities.

5 *d.* An employer shall not terminate the employment of a
6 person disabled by pregnancy or absent due to an adoption
7 because of the employee's pregnancy or absence.

8 *e.* Where a leave is not available or a sufficient leave
9 is not available under any health or temporary disability
10 insurance or sick leave plan available in connection with
11 employment, the employer of the pregnant or adopting employee
12 shall not refuse to grant to the employee who is disabled by
13 the pregnancy, or absent due to an adoption, a leave of absence
14 if the leave of absence is for the period that the employee is
15 disabled because of the employee's pregnancy, childbirth, or
16 related medical conditions, or preparing for or participating
17 in the adoption of a child, or caring for a newly adopted
18 child within the first year of adoption, or for eight weeks,
19 whichever is less. However, the employee must provide timely
20 notice of the period of leave requested and the employer must
21 approve any change in the period requested before the change is
22 effective. Before granting the leave of absence, the employer
23 may require ~~that~~ one of the following:

24 (1) That the employee's disability resulting from pregnancy
25 be verified by medical certification stating that the employee
26 is not able to reasonably perform the duties of employment.

27 (2) That the employee's adoption of a child be verified by
28 documentation of the adoption and that the employee certify in
29 writing that the employee will not able to reasonably perform
30 the duties of employment because the employee will be preparing
31 for or participating in the adoption of a child, or caring for
32 a newly adopted child within the first year of adoption.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 Code chapter 216, the Iowa civil rights Act, provides
2 certain employment protections to employees relating to
3 pregnancy and childbirth. This bill provides that these
4 protections also apply to employees who are absent from work
5 due to an adoption. The bill defines "adoption" as the
6 permanent placement in Iowa of a child by the department of
7 human services, by a licensed agency under Code chapter 238, by
8 an agency that meets the provisions of the interstate compact
9 in Code section 232.158, or by a person making an independent
10 placement according to the provisions of Code chapter 600. The
11 bill defines "absence due to an adoption" to include an absence
12 in order to prepare for or participate in the adoption of a
13 child, or to care for a newly adopted child within the first
14 year of adoption.

15 The bill provides that an employment policy or practice
16 which excludes from employment applicants or employees because
17 of the employee's adoption is a prima facie violation of Code
18 chapter 216.

19 The bill provides that an employee's absence due to an
20 adoption is, for job-related purposes, a temporary disability
21 and shall be treated as such under any health or temporary
22 disability insurance or sick leave plan available in connection
23 with employment. Employment policies and practices involving
24 certain matters such as the commencement and duration of leave,
25 the accrual of seniority, and payment under any health or
26 temporary disability insurance or sick leave plan shall be
27 applied to a disability due to the employee's absence due to an
28 adoption on the same terms and conditions as they are applied
29 to other temporary disabilities.

30 The bill prohibits an employer from terminating the
31 employment of a person absent due to an adoption because of the
32 employee's absence.

33 Where a leave is not available or a sufficient leave is not
34 available under any health or temporary disability insurance
35 or sick leave plan available in connection with employment,

1 the bill prohibits an employer of an adopting employee from
2 refusing to grant to the employee a leave of absence if
3 the leave of absence is for the period that the employee is
4 preparing for or participating in the adoption of a child,
5 or caring for a newly adopted child within the first year of
6 adoption, or for eight weeks, whichever is less. The employee
7 must provide timely notice of the period of leave requested.
8 The employer may first require that the employee's adoption
9 of a child be verified by documentation and that the employee
10 certify that the employee will not be able to reasonably perform
11 the duties of employment because the employee will be preparing
12 for or participating in the adoption of a child, or caring for
13 a newly adopted child within the first year of adoption.

14 Penalty provisions for discriminatory employment practices
15 are made applicable to violations of the employment protections
16 granted by the bill.